IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 6TH DECEMBER 2007 / 15TH AGRAHAYANA 1929

Bail Appl..No. 7437 of 2007()

CRIME NO. 614/07 OF KATTAPPANA POLICE STATION
CMP.5362/2007 of J.M.F.C., KATTAPPANA

.....

PETITIONER : ACCUSED:

AJAYDEV, S/O.DIVAKARAN,
AGED 33 YEARS, ULLAS-SAGAR HOUSE, ADICHANELLOOR VILLAGE, ADICHANELLOOR KARA, SOCIETY JUNCTION, KOLLAM.

BY ADV. SRI.GRASHIOUS KURIAKOSE

RESPONDENTS: COMPLAINANT:

STATE - C.I. OF POLICE, KATTAPPANA,
REP. BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 06/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

- -

B.A.No. 7437 of 2007

- -

Dated this the 6th day of December, 2007

O R D E R

Application for regular bail. The petitioner, a medical practitioner, faces allegations under Section 306 I.P.C. The deceased was a lady Lab Technician working along with the petitioner. Allegations of rape were earlier made against the petitioner when the deceased attempted to commit suicide. The petitioner was arrested and was in custody for some period of time. Thereafter the relationship between the deceased and the petitioner allegedly continued. They were having their rendezvous at a lodge frequently. They allegedly indulged in sexual intercourse also on such occasions. On the crucial date also, they had sexual intercourse at that lodge. Thereafter the victim was brought to the hospital by the petitioner in a car from the said hotel. He declared to others that she has suffered an attack of fits. But when the doctor on duty at the hospital identified that she had consumed a poisonous substance, the petitioner allegedly made himself scarce. He went back to the

hotel and removed all the articles there and started absconding. That incident was on 30.10.2007. The petitioner was later arrested on 7.11.2007 and he continues in custody from that date.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. He has not abetted the commission of suicide nor has there been any contumacious role on his part. He may now be enlarged on bail, prays the counsel.

3. The learned counsel further submits that the deceased was suspected to be afflicted with cancer and the possibility of her having committed suicide on account of such ailment cannot be ruled out. At this stage there is no satisfactory indication to that effect.

4. The learned prosecutor opposes the application. He submits that the investigation is at an early stage. The Investigating Officer has not come to specific and definite conclusions about the nature of the culpability of the petitioner. The version of the petitioner leaves very little to be desired. Further investigation must be conducted. The conduct of the petitioner arouses suspicion about the nature of his complicity. Whether he is liable only for abetting to commit suicide or

there is more sinister role in bringing about the death of the deceased is not yet clear. It is true that the prosecution has not at the moment made any graver allegation than the one under Section 306 I.P.C. The Investigators must be given more time to complete the investigation.

5. Having considered all the relevant inputs and having perused the case diary, I am satisfied that there is merit in the opposition. I am not persuaded to agree that the petitioner deserves the invocation of the discretion under Section 439 Cr.P.C. at this stage.

6. This application is, in these circumstance, dismissed. But I may hasten to observe that the petitioner shall be at liberty to move this court or the courts below for bail again at a later stage of the investigation, not at any rate, prior to 19.12.2007. The Investigators shall, in the meantime, make every endeavour to arrest the co-accused and complete the investigation.

(R. BASANT)
Judge

tm